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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/704,595	11/02/2000	Antonius H.M. Akkermans	PHN 17,721	2515
24737	7590	06/04/2003		
PHILIPS ELECTRONICS NORTH AMERICAN CORP 580 WHITE PLAINS RD TARRYTOWN, NY 10591			EXAMINER	
			ORTIZ, JORGE L	
		ART UNIT	PAPER NUMBER	
		2697		
DATE MAILED: 06/04/2003				

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No.	Applicant(s)
	09/704,595	AKKERMANS, ANTONIUS H.M.
	Examiner	Art Unit
	Jorge L Ortiz-Criado	2697

— The MAILING DATE of this communication appears on the cover sheet with the correspondence address —

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

1) Responsive to communication(s) filed on 17 March 2003.

2a) This action is FINAL. 2b) This action is non-final.

3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

4) Claim(s) \_\_\_\_\_ is/are pending in the application.

4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.

5) Claim(s) \_\_\_\_\_ is/are allowed.

6) Claim(s) 1-15 is/are rejected.

7) Claim(s) \_\_\_\_\_ is/are objected to.

8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

9) The specification is objected to by the Examiner.

10) The drawing(s) filed on 11/02/2000 is/are: a) accepted or b) objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

11) The proposed drawing correction filed on 17 March 2003 is: a) approved b) disapproved by the Examiner.  
If approved, corrected drawings are required in reply to this Office action.

12) The oath or declaration is objected to by the Examiner.

#### Priority under 35 U.S.C. §§ 119 and 120

13) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a) All b) Some \* c) None of:

- Certified copies of the priority documents have been received.
- Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
- Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

14) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).

a)  The translation of the foreign language provisional application has been received.

15) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

#### Attachment(s)

1)  Notice of References Cited (PTO-892) 4)  Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_

2)  Notice of Draftsperson's Patent Drawing Review (PTO-948) 5)  Notice of Informal Patent Application (PTO-152)

3)  Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_ 6)  Other: \_\_\_\_\_

**DETAILED ACTION**

*Drawings*

1. The proposed drawing correction and/or the proposed substitute sheets of drawings, filed on 3/17/03 have been disapproved because they introduce new matter into the drawings. 37CFR 1.121(f) states that no amendment may introduce new matter into the disclosure of an application. The original disclosure does not support the showing of a “signal separation means” on Fig. 1, block 70.
2. The drawings are objected to because Fig. 6B reference numbers. “P1-P7” should be “t1-t7” respectively as discloses in the specification. A proposed drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

*Specification*

3. The disclosure is objected to because of the following informalities:

The proposed specification corrections, filed on 3/17/03 have been disapproved and not entered because, insufficient information, such as page “number” and line “number”. Appropriate correction is required.

***Claim Rejections - 35 USC § 112***

The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

4. Claims 3-15 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter, which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. The specification, as originally filed, fail to provide support for the inventions as it is claimed. Specifically, the original specification fails to shows the signal separation system recited in claim 9 and discloses in new Fig. 1, block 10. The term "signal separation system" does not appear in the original disclosure and does not support the proposed drawing correction.
5. The text of those sections of Title 35, U. S. Code not included in this action can be found in a prior office action.

***Claim Rejections - 35 USC § 102***

6. Claim 1,3-5,7-11,13, and 14-15 are rejected under 35 U.S.C. 102(b) as being anticipated by Gérard et al. U.S. Patent No. 4,561,082.

Regarding claim 1, Gérard discloses a device, for reading and or writing information from/onto an optical information carrier, said information stored in the form of differences in intensity level (See col. 1, lines 39-43), said device comprising:

-read means including imaging means for imaging a radiation beam so as to form a scanning spot by means of which the information carrier is scanned, and including detection means for generating a read signal, which is indicative of the intensity of the radiation reflected from the information carrier at the location of the scanning spot (col. 1, lines 9-15, lines 36-43; col. 2, lines 39-56; col. 3, lines 24-46; col. 8, lines 41-67 to col. 9, lines 1-27; col. 11, lines 29-63; Figs. 1,2, 3, 4, 5, 6,9,10),

-which device has an information transfer mode, in which the scanning spot is moved in a first direction with respect to the information carrier (col. 6, lines 10-16),

-which device has a displacement mode, in which the scanning spot is moved in a second direction transverse to the first direction (col. 5, lines 49-65)(col. 6, lines 21-25),

-control means for controlling the imaging means in response to a measurement signal which is indicative of the degree of focusing of the radiation beam at the location of scanning spot, which control means include sample and hold means for sampling and holding the measurement signal in response to a sample signal (col. 2, lines 39-56)(col. 3, lines 14-68)(col. 5, lines 47-65) (col. 6, lines 21-25)(col. 8, lines 41-67 to col. 9, lines 1-27)(col. 11, lines 33-63) (See Figs. 1,2, 3, 4, 5, 10)

-wherein the sample signal causes the measurement signal to be sampled at locations having mutually the same intensity level. (See col. 8, lines 41-67 to col. 9, lines 1-27; col. 11, lines 29-63; Figs. 2, 3, 4, 5).

Regarding claim 3, Gérard discloses a device for reading and recording information on an optical information carrier, said information carrier having information stored therewithin as patterns formed by differences in intensity levels (See col. 1, lines 39-43; col. 7, lines 8-16; Figs. 1,2,3,4,5,6,9,10), said device comprising:

a read system adapted to read data from said optical information carrier, said read system further comprising a radiation beam source, a radiation beam, a device for focusing said radiation beam, a scanning spot formed with said focused radiation beam and proximate said optical information carrier, said scanning spot having an intensity (col. 1, lines 9-15, lines 36-43; col. 2, lines 39-56; col. 3, lines 24-46; col. 7, lines 8-16; col. 8, lines 41-67 to col. 9, lines 1-27; col. 11, lines 29-63; Figs. 1,2, 3, 4, 5, 6,9,10),

a motion control device for controlling movement of said scanning spot relative to said optical information carrier (col. 6, lines 10-16),

and for generating a read signal (SLS) which is indicative of the intensity of the radiation reflected from the information carrier at the location of the scanning spot, said read system further adapted to derive, from said optical information carrier via said scanning spot, a measurement signal, a radial error signal, and an information signal (col. 1, lines 9-15, lines 36-43; col. 2, lines 39-56; col. 3, lines 24-46; col. 8, lines 41-67 to col. 9, lines 1-27; col. 11, lines 29-63; Figs. 1,2, 3, 4, 5, 6,9,10);

and a signal separation system operatively coupled to said read system, said signal separation system adapted to produce a sample signal to control sampling of said measurement signal, said sample signal proportional to the intensity of said scanning spot,

and wherein said sample signal causes the measurement signal to be sampled at locations having mutually the same intensity level (col. 1, lines 9-15, lines 36-43; col. 2, lines 39-56; col. 3, lines 24-46; col. 7, lines 8-16; col. 8, lines 41-67 to col. 9, lines 1-27; col. 11, lines 29-63; Figs. 1,2, 3, 4, 5, 6,9,10);

Regarding claim 9, Gérard discloses a method of reading information stored on an optical information carrier (See col. 1, lines 39-43; col. 7, lines 8-16; Figs. 1,2,3,4,5,6,9,10), said method comprising:

providing an optical information carrier (See col. 1, lines 39-43; col. 7, lines 8-16; Figs. 1,2,3,4,5,6,9,10),

said optical information carrier having a multilevel structure, and said optical information carrier bearing data recorded as patterns formed in the information carrier by differences in intensity levels (See col. 1, lines 9-15, lines 36-43; col. 2, lines 39-56; col. 3, lines 24-46; col. 7, lines 8-16; col. 8, lines 41-67 to col. 9, lines 1-27; col. 11, lines 29-63; Figs. 1,2, 3, 4, 5, 6,9,10).

providing a read system adapted to read data from said optical information carrier, said read system further comprising a radiation beam source, a radiation beam, a device for focusing said radiation beam, a scanning spot formed with said focused radiation beam and proximate said optical information carrier, said scanning spot having an intensity (col. 1, lines 9-15, lines 36-43; col. 2, lines 39-56; col. 3, lines 24-46; col. 7, lines 8-16; col. 8, lines 41-67 to col. 9, lines 1-27; col. 11, lines 29-63; Figs. 1,2, 3, 4, 5, 6,9,10),

, a motion control device for controlling movement of said scanning spot relative to said optical information carrier (col. 6, lines 10-16), and for generating a read signal (SLS) which is indicative of the intensity of the radiation reflected from the information carrier at the location of the scanning spot, said read system further adapted to derive, from said optical information carrier via said scanning spot, a measurement signal, a radial error signal, and an information signal; and providing a signal separation system operatively coupled to said read system (See col. 1, lines 9-15, lines 36-43; col. 2, lines 39-56; col. 3, lines 24-46; col. 7, lines 8-16; col. 8, lines 41-67 to col. 9, lines 1-27; col. 11, lines 29-63; Figs. 1,2, 3, 4, 5, 6,9,10).

said signal separation system adapted to produce a sample signal to control sampling of said measurement signal, said sample signal proportional to the intensity of said scanning spot, and wherein said sample signal causes the measurement signal to be sampled at locations having mutually the same intensity level (See col. 1, lines 9-15, lines 36-43; col. 2, lines 39-56; col. 3, lines 24-46; col. 7, lines 8-16; col. 8, lines 41-67 to col. 9, lines 1-27; col. 11, lines 29-63; Figs. 1,2, 3, 4, 5, 6,9,10).

Regarding claims 4 and 10, Gérard discloses wherein said intensity of said scanning spot is an indicator of a location of the scanning spot with respect to the patterns provided in the information carrier (col. 1, lines 9-15, lines 36-43; col. 2, lines 39-56; col. 3, lines 24-46; col. 8, lines 41-67 to col 9, lines 1-27; col. 11, lines 29-63; Figs. 1,2, 3, 4, 5, 6,9,10);

Regarding claims 5 and 11, Gérard discloses wherein said sample signal causes the measurement signal to be sampled at instants when said intensity is comparatively high and a periodic clock signal is received by said signal separation system (See col. 1, lines 9-15, lines 36-43; col. 2, lines 39-56; col. 3, lines 24-46; col. 7, lines 8-16; col. 8, lines 41-67 to col. 9, lines 1-27; col. 11, lines 29-63; Figs. 1,2, 3, 4, 5, 6,9,10).

Regarding claim 7 and 13, Gérard discloses wherein said read system is adapted to operate in two operational modes:

an information transfer mode wherein said motion control device provides motion of said scanning spot in a tangential first direction with respect to an axis about which said information carrier is rotated (See col. 6, lines 10-16; Figs. 6, 7);

and a displacement mode wherein said motion control device provides motion of said scanning spot in a radial second direction, wherein said radial transverse direction is transverse to said first direction (See col. 5, lines 49-65; col. 6, lines 21-25; Figs. 6, 7).

Regarding claim 8, Gérard discloses wherein said read system further comprises a system for generating a logic signal which indicates that information is recorded on the information carrier in the form of differences in level of a surface of the information carrier (See col. 1, lines 9-15, lines 36-43; col. 2, lines 39-56; col. 3, lines 24-46; col. 7, lines 8-16; col. 8, lines 41-67 to col. 9, lines 1-27; col. 11, lines 29-63; Figs. 1,2, 3, 4, 5, 6,9,10).

Regarding claim 14, Gérard discloses wherein said sampling of the measurement signal when said intensity is comparatively high results in a reduction of radial-to-vertical crosstalk (See col. 8, lines 41-67 to col. 9, lines 1-27; col. 11, lines 29-63)

Regarding claim 15, Gérard discloses an apparatus for employing an optical onformation carrier (See col. 1, lines 39-43; col. 7, lines 8-16; Figs. 1,2,3,4,5,6,9,10), said apparatus comprising:

device for reading and recording information on said optical information carrier, said information carrier having information stored therewithin as patterns formed by differences in levels (col. 1, lines 9-15, lines 36-43; col. 2, lines 39-56; col. 3, lines 24-46; col. 7, lines 8-16; col. 8, lines 41-67 to col. 9, lines 1-27; col. 11, lines 29-63; Figs. 1,2, 3, 4, 5, 6,9,10),

a read system adapted to read data from said optical information carrier, said read system further comprising a radiation beam source, a radiation beam, a device for focusing said radiation beam, a scanning spot formed with said focused radiation beam and proximate said optical information carrier, said scanning spot having an intensity (col. 1, lines 9-15, lines 36-43; col. 2, lines 39-56; col. 3, lines 24-46; col. 7, lines 8-16; col. 8, lines 41-67 to col. 9, lines 1-27; col. 11, lines 29-63; Figs. 1,2, 3, 4, 5, 6,9,10),

, a motion control device for controlling movement of said scanning spot relative to said optical information carrier (col. 6, lines 10-16),

and a device for deriving, from said optical information carrier via said scanning spot, a measurement signal, a radial error signal, and an information signal (See col. 1, lines 9-15,

lines 36-43; col. 2, lines 39-56; col. 3, lines 24-46; col. 7, lines 8-16; col. 8, lines 41-67 to col. 9, lines 1-27; col. 11, lines 29-63; Figs. 1,2, 3, 4, 5, 6,9,10).

    said signal separation system operatively coupled to said read system, said signal separation system adapted to produce a sample signal to control sampling of said measurement signal, said sample signal proportional to the intensity of said scanning spot, and wherein said sample signal causes the measurement signal to be sampled when said intensity is comparatively high (See col. 1, lines 9-15, lines 36-43; col. 2, lines 39-56; col. 3, lines 24-46; col. 7, lines 8-16; col. 8, lines 41-67 to col. 9, lines 1-27; col. 11, lines 29-63; Figs. 1,2, 3, 4, 5, 6,9,10).

*Claim Rejections - 35 USC § 103*

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claim 2 is rejected under 35 U.S.C. 103(a) as being unpatentable over Gérard et al. U.S. Patent No. 4,561,082 in view of Tateishi U.S Patent No. 5,636,197.

Gérard et al discloses all the limitation of base claim 1 as outlined above. But fail to disclose including means for measuring the time during which the measurement signal

is held and means for causing the measurement signal to be sampled when the time exceeds a predetermined value.

However, this feature is well known in the art as evidenced by Tateishi, which disclose means for measuring the time during which the measurement signal is held and means for causing the measurement signal to be sampled when the time exceeds a predetermined value (col. 3, lines 22-46).

Therefore, it would have been obvious to one having ordinary skill in the art at the time of the invention to modify Gérard et al.'s invention by include means for measuring the time during which the measurement signal is held and means for causing the measurement signal to be sampled when the time exceeds a predetermined value, in order to provide focusing control on an optical information carrier as suggested by Tateishi.

#### *Response to Arguments*

8. Applicant's arguments filed 3-17-03 have been fully considered but they are not persuasive. Applicant's response to the rejection of the claims 1 as unpatentable over Gérard et al. stated "a device for reading and writing information from/onto an optical information carrier, comprising, Applicants argued that Gérard et al. does not disclose "wherein a device for reading and/or writing information from/onto an optical information carrier, where said information is stored in the form of differences in level". The examiner cannot concur

because Gérard et al. explicitly discloses where said information is stored in the form of differences in level, see col. 1, lines 36-43; col. 5, lines 27-41; col. 7, lines 8-16; Figs. 2,3,4)

Applicant also argued that Gérard et al. "does not disclose a control means for controlling the imaging means in response to a measurement signal which is indicative of the degree of focusing of the radiation beam at the location of the scanning spot, which control means include sample and hold means for sampling and holding the measurement signal in response to a sample signal, characterized in that the sample signal causes the measurement signal to be sampled at locations having mutually the same intensity level".

The Examiner cannot concur because Gérard et al. explicitly discloses a control means for controlling the imaging means in response to a measurement signal which is indicative of the degree of focusing of the radiation beam at the location of the scanning spot, which control means include sample and hold means for sampling and holding the measurement signal in response to a sample signal, see col. 8, lines 41-67 to col. 9 lines 1-26, col. 11, lines 57-62, Fig. 1, items 1, Fig. 5, Figs 9,10), characterized in that the sample signal causes the measurement signal to be sampled at locations having mutually the same intensity level, "such as intertrack areas", see col. 8, lines 24-32, col. 8, lines 41-67 to col. 9 lines 1-26; Fig. 4). References are evaluated by what they suggest to one versed in the art, rather than by their specific disclosures. *In re Bozec, 163 USPQ 545 (CCPA 1969)*.

### ***Conclusion***

**THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

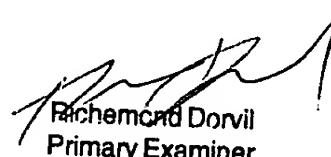
A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jorge L Ortiz-Criado whose telephone number is (703) 305-8323. The examiner can normally be reached on Mon.-Thu.(8:30 am - 6:00 pm),Alternate Fridays off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, HOFASS R JEFFERY can be reached on (703) 305-4717. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 308-6743 for regular communications and (703) 308-6743 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 305-3900.

joc  
June 1, 2003



Richard Dorvil  
Primary Examiner